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RUEHWL/AMEMBASSY WELLINGTON 1159  
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DEPT FOR EAP/MTS AND EB/IFD/OMA  
TREASURY FOR IA-SETH SEARLS  
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SUBJECT: USTR AND ASEAN SECRETARIAT DISCUSS TIFA AND ASEAN  
TRADE AGREEMENTS

¶1. (SBU) Summary. Assistant United States Trade Representative (AUSTR) for Southeast Asia and the Pacific Barbara Weisel and Director for Southeast Asia and Pacific Affairs David Katz met on November 6 with Anna Robeniol, head of the Free Trade Agreements (FTA) Section of the Bureau of Economic Integration and Finance at the ASEAN Secretariat to discuss ongoing work related to the ASEAN-US

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Trade and Investment Framework Arrangement (TIFA) and the status of ASEAN trade negotiations with other countries. AUSTR Weisel encouraged ASEAN Secretariat staff to work with USTR to move the ASEAN-US TIFA process forward and urged ASEAN officials to improve the channels of communication with the United States on ongoing work related to the TIFA, especially projects related to sanitary and phytosanitary standards, pharmaceuticals, and the ASEAN Single Window.

¶2. (SBU) Robeniol provided a detailed readout of ongoing ASEAN trade agreement negotiations with China, Japan, Korea, India, Australia, New Zealand and the EU. Pakistan has also approached ASEAN seeking to start discussions on a trade agreement, but ASEAN declined for now citing resource constraints. ASEAN also is considering whether to seek FTA negotiations with the Gulf Cooperation Council (GCC). End Summary

ASEAN and China Negotiating Multiple Agreements  
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¶3. (SBU) Robeniol noted that ASEAN and China finalized their FTA on trade in goods in mid-2005. The agreement requires ASEAN countries to reduce all tariff lines to 5 percent or less by 2010 (although Cambodia, Laos, Myanmar and Vietnam (CLMV) were given two additional years to phase out tariffs), with the exception of a 'sensitive list' of products for which countries will have until 2018 to cut tariffs to 5 percent or less. In addition, the agreement includes a list of about 260 tariff lines classified as 'highly sensitive products,' including such products as automobiles, rice, sugar and garments. Robeniol noted that ASEAN countries made no commitments to lower tariff rates on these items, but would consult in the future on possible reductions.

14. (SBU) Robeniol noted that China and ASEAN expect to sign a services agreement, based on the GATS framework, this December during an ASEAN Ministerial meeting in Cebu, Philippines. The agreement will include only initial services offers. Robeniol asserted that the final agreement will be 'GATS-plus.' According to Robeniol, the current plan is to negotiate and conclude the final ASEAN - China services agreement in 2007. Robeniol acknowledged that there had been challenges in the run up to the agreement to launch, including disagreements over the definition of juridical person, the scope of substantial business operations, residency requirements and establishing a carve-out for taxation.

15. (SBU) Robeniol also noted that ASEAN and China had also agreed to negotiate an investment agreement. However, she lamented that disagreements between ASEAN and China and disagreements among ASEAN countries have created difficulties in the negotiations. For example, ASEAN and China have failed to agree on the use of a negative or a positive list. According to Robeniol, ASEAN looks to the 1998 Framework Agreement on the ASEAN Investment Area as addressing threshold issues in both the services and investment agreements it would pursue with China.

#### Japan Pursues Bilateral EPAs as Part of ASEAN Strategy

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16. (SBU) Japan is pursuing a strategy of negotiating a series of bilateral economic partnership agreements (EPA), their version of an FTA, with ASEAN countries, Robeniol said. She noted that Japan had completed EPA negotiations with Malaysia, Singapore and the Philippines and was currently negotiating an EPA with Indonesia. Japan had also

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completed its agreement with Thailand and intends to sign it early next year, the recent military coup notwithstanding, Robeniol reported. She added that Japan intends to launch EPA negotiations with Vietnam during 2007 and also plans in the near future to open EPA negotiations with Brunei. Japan sees Cambodia, Laos and especially Burma as on a slower track toward EPAs, she concluded.

#### Korea FTA with ASEAN Completed, Thailand Opts Out

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17. (SBU) ASEAN and Korea completed negotiations for an FTA earlier this year and they expect to sign it by the end of 2006, Robeniol said. However, she continued, Thailand has effectively opted out of the FTA with Korea, at least for now, primarily over disputes on market access for rice.

#### Australia/New Zealand FTA

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18. (SBU) Australia and New Zealand are negotiating an FTA with ASEAN as a single undertaking, with a target to complete the deal within the next 18 months to two years, Robeniol reported. She acknowledged that the agreement does not contain chapters on labor, environment, or on government procurement. She added that in addition to the ASEAN-wide negotiation, Australia is negotiating bilateral FTAs with Malaysia and Thailand, although Australia suspended the latter as a result of the coup. Robeniol noted that the fact that Australia is conducting both the multilateral and bilateral negotiations simultaneously has complicated Australia's ability to advance the ASEAN negotiations. Australia apparently is reluctant to make concessions in the ASEAN negotiation that would undermine outcomes it is seeking in the Malaysia negotiations.

#### India Looking to Defensive Equities in ASEAN FTA

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¶9. (SBU) ASEAN officials do not expect to conclude the ASEAN-India FTA negotiations in the near future because of ongoing disagreement over India's insistence on significant exclusions, currently at 560 tariff lines and a significant share of trade, Robeniol said. She noted that the excluded items include palm oil, coffee, black tea, pepper and many other items where ASEAN countries would expect to be competitive. India, she said, wished to exclude all these items and to instead offer preferential tariff rate quotas on a bilateral basis. She continued that in addition to this extensive exclusion list, India sought to include a long 'sensitive list' that would phase down tariffs until 2022, but then only to a level 20 percent to 30 percent below the Most Favored Nation (MFN) rate.

¶10. (SBU) Robeniol reported that India has expressed concern that an FTA with ASEAN would open the door to transshipment of commodities from China and others in the region. For example, she noted concerns that goods, such as tea from China and Sri Lanka, would enter India's market through ASEAN countries under the preferential basis of the ASEAN FTA. As a result, she said, reaching agreement on rules of origin was proving to be quite difficult.

¶11. (SBU) Robeniol also said that India is seeking to negotiate investment and services agreements along with the goods agreement currently under negotiation. According to Robeniol, ASEAN intends to complete the goods agreement before moving on to negotiate services and investment.

#### EU FTA Negotiations with ASEAN Slated for 2007

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¶12. (SBU) Robeniol reported that European Union Trade Commissioner Peter Mandelsohn planned to attend the ASEAN Leaders Summit in the Philippines this December and announce the EU's launch of FTA negotiations with ASEAN. She said that negotiations would not actually start until sometime in

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mid- or late 2007. She indicated that the EU would use a dual track approach, given EU sensitivities in dealing with some ASEAN member countries, which attendees understood to mean Burma. Under this dual track approach the EU would first negotiate with the more developed ASEAN economies and leave lesser developed economies, such as Cambodia and Laos along with Burma, for later.

#### Pakistan Comes Knocking and GCC a Possibility

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¶13. (SBU) Pakistan earlier this year had approached ASEAN to seek exploratory FTA discussions, Robeniol said. She stated that due to limited capacity in the ASEAN Secretariat, which only has around eight staff to manage all FTA negotiations, and the very large number of ongoing FTA negotiations, ASEAN had politely declined. However, she did not dismiss future prospects for such exploratory FTA discussions with Pakistan. ASEAN also has been considering a possible FTA with the GCC. These discussions are at a very preliminary stage.

¶14. (SBU) USTR Comment. ASEAN would seem to be in midst of or about to begin FTA negotiations with virtually every major trading nation or group or nations. The United States should continue to actively engage the ASEAN region, both as a group and bilaterally, to maintain and advance our commercial and strategic interests in the region. End Comment.

¶15. (U) USTR Director for Southeast Asia and Pacific Affairs David Katz drafted this report.

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